

Remarks

In response to the Office Action dated August 15, 2007, Applicant respectfully requests reconsideration based on the above claim amendment and the following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance.

Claims 1-3, 5-10, 12-14 and 16-28 are currently pending. The Applicant thanks the Examiner for the allowable subject matter in regards to claims 1-3, 5-10, 12-14, 16-20 and 22-28. Claims 7, 20, and 21 have been amended. No new matter has been added. No new claims have been added. Applicant asserts that all claims are in condition for allowance as set forth more fully below.

Double Patenting Rejections

Claims 1-3, 5-10, 12-14 and 16-28 stand rejected under the nonstatutory double patenting doctrine in relation to claims 1-20 of App. 09/964,385, claims 1-20 of App. 10/101,630 (now issued as patent 7,200,425) and claims 1-21 of U.S. Patent 7,003,329. Applicants do not concede to the correctness of these rejections. As this is a provisional rejection in regards to applications 09/964,385 since none of the claims have yet to be patented, Applicant respectfully asserts that a terminal disclaimer would be premature in regards to this patent application and reserves the right to respond to such double patenting rejections in the future upon such claims being patented. However, to expedite prosecution on the merits, Applicants have elected to file a terminal disclaimer herewith in regards to claims 1-20 of U.S. Patent 7,200,425 and claims 1-21 of U.S. Patent 7,003,329. Accordingly, claims 1-3, 5-10, 12-14 and 16-28 are now in condition for allowance.

103 Rejections

Claim 21 stands rejected under 35 USC §103(a) as being unpatentable over Stone (US Pat 5,767,778) in view of Suzuki (US Pat 6,556,665).

Applicant asserts that amended independent claim 21 recites additional subject matter not described by Stone, Suzuki or their combination. The additional subject

matter is supported in paragraphs [0027-0029] of the specification. As a representative sample, amended claim 21 recites in pertinent part:

“[a] computer readable medium containing instructions that when executed by a processor of a wireless device perform acts, the acts comprising: storing a plurality of sound files in a memory within a body of the wireless device; receiving input from a selector device located on an audio signal device connected to the body of the wireless device and to a battery, wherein the battery powers electronic circuitry within the body of the wireless device, the memory and a sound generating device within the audio signal device; designating a file of the plurality to use as an alert signal by the sound generating device by manipulating the selector on the audio signal device; generating an electric signal from the electronic circuitry within the body of the wireless device to the battery in response to an incoming communication and also generating an electric signal from the electronic circuitry within body of the wireless device to the battery in response to an event at the wireless device other than an incoming communication and alerting a user with the alert signal of the designated file in response to the signal generated by the electronic circuitry within the body of the wireless device.”

The Office Action concedes that Stone fails to describe playing an alert associated with the file upon detection of an event at the wireless communication device other than an incoming communication. However, the Office Action proceeds by asserting that Suzuki cures the deficiency of Stone. Specifically, the Office Action cites Suzuki as disclosing that when the audio alert is used as an alarm sound, a predetermined time is set as in the case of an alarm clock. When the predetermined time occurs, the CPU reads the audio signal out of memory. (Col. 4, l. 14-17). Suzuki does not describe that the alert generating device is triggered to play an alert upon detection of a signal from the wireless communication device to the battery generated by an event at the wireless communication device other than an incoming communication. In fact, Suzuki fails to describe at all how the CPU is triggered to read the audio signal out of memory. Further, neither Haraguchi nor Sawada, which were cited in previous Office Actions, addresses the issue. Therefore, since none of the cited references describe that the alert generating device is triggered to play an alert upon detection of a signal from the wireless communication device to the battery generated by an event at the wireless communication device other than an incoming communication, their combination is also deficient.

Further, there is no motivation to combine Stone and Suzuki because Stone teaches away from detecting signals in order to produce an alert for a reason other than an

incoming call. There would also be no reasonable chance of success even if Stone were modified to include a clock. Stone teaches that the microprocessor is programmed to minimize false alerts by restricting a generation of an alert to those events characterized by a certain duration of power consumption or a certain sequence of power consumption levels characteristic of an incoming call. (Col. 6, l. 60, Col. 7, l. 8). By restricting an alert to the detection of a certain a pattern of consumption levels associated with an incoming call, Stone teaches away from producing an alert for events other than an incoming call. The Office Action concedes that Stone only describes the power events of an incoming call. Therefore, merely adding a clock whereby an output indicates that an event has occurred would not be a series of power draws recognized by the processor (i.e. it would be a false alert) and an alert would not be generated. Therefore the modification would have no reasonable chance of success. A reasonable chance of success is required. MPEP 2143.02.

Furthermore, since Stone describes only alarming on an incoming call, a modification of Stone to ring for other events would be required and that would change the principle of operation of Stone. A proposed modification can not change the principal of operation of a reference. MPEP 2143.01.

For at least the above reasons, the amended independent claim 21 is allowable over the combination of Stone and Suzuki.

Conclusion

Claims 1-3, 5-10, 12-14 and 16-28 are pending. Claims 1-3, 5-10, 12-14, 16-20 and 22-28 contain allowable subject matter. Claims 7, 20, and 21 have been amended. Applicant thanks the Examiner for the allowed subject matter and requests reconsideration of claim 21 based on these amendments and arguments. Should the Examiner have any questions, please contact the undersigned.

No additional are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

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